

## Interesting USACE Publications

Efficiency Review of USACE Contracting Division, Nov 1988

Best Value Source Selection Guide to Best Procedures, April 1997

Contact: Bill Brewer, Transatlantic Programs Center

USACERL - Guide for Processing Simplified Acquisitions, August 1997

Contact: Wayne Kurokawa or Patricia A. Davis

USACERL - Contracts office Contract Administration Procedures, July 1, 1996

USACERL - Requisitioner's Guide, August 1997

USACERL - Contracts office Services Assessment Surveys

USACERL - Modifications Checklist, Contract Checklist (500K & over) Contract checklist (< 500 K) Checklist for Delivery Orders BAA Checklists

Contact: Wayne Kurokawa

USACE - Professional Development Support Center, Huntsville, Cost Reimbursement Construction Contracts (CRCC), Guide FY98

USACE - Construction Contract Administration (CCA)

### DAR COUNCIL HIGHLIGHTS

*By Esther Morse, SARDA*

The purpose of this report is to provide "heads-up" information on significant FAR and DFARS cases being resolved by the DAR, CAAC and FAR Councils. Please feel free to follow up on publication of specific cases by visiting the Federal Register web site: [www.access.gpo.gov/su\\_docs/aces140.html](http://www.access.gpo.gov/su_docs/aces140.html). For a good synopsis of items appearing in specific Federal Acquisition Circulars (FACS) feel free to access the OGC web site: [www.access.gpo.gov/su\\_docs/index.html](http://www.access.gpo.gov/su_docs/index.html). If you have

questions, please do not hesitate to contact Esther Morse via e-mail [morsee@sarda.army.mil](mailto:morsee@sarda.army.mil).

1. FAR Case 97-304, Electronic Commerce in Federal Procurement. Draft proposed rule implements Section 850 of the FY98 Defense Authorization Act (Public Law 105-85). It eliminates the preference for electronic commerce within federal agencies to be conducted exclusively on the FACNET computer architecture. Section 850 also states that federal procurement systems that employ electronic commerce shall apply nationally and internationally recognized standards that broaden interoperability and eases the electronic interchange of information. Therefore the proposed allows any number of combinations of software and hardware to be used to conduct electronic commerce, provided that the statutory requirement for "universal user access through a single, Governmentwide point of entry" is met.

2. FAR Case 97-306, Contract Bundling. Draft proposed rule implements Sections 411-417 of the Small Business Reauthorization Act of 1997. The statute defines a "bundled contract" as a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements. The proposed rule provides policies and procedures governing the execution of bundled contracts.

3. FAR Case 97-003, Federal Tax Reporting requirements. Draft interim rule clarifies requirements for reporting of contract and payment information to the Internal Revenue Service,

4. FAR Case 97-015, Alternate Dispute Resolution. Draft final rule implements Administrative Dispute Resolution Act of 1996, revising the protest, disputes and appeals rules in Part 33 to provide for alternative dispute resolution (procedures voluntarily used to resolve issues in controversy without the need for litigation).

5. FAR Case 97-042, Limits on Fees for CPIF and CPAF Contracts. Final rule clarifies statutory limits on profit and fee in Part 16, removing the cap on fees applied to CPIF contracts.

6. DFARS Case 97-DO39, Contract Distribution to DFAS Accounting Offices. Final rule updates requirements in Part 204 for contract distribution to reflect distribution to the DFAS paying and accounting offices.

7. DFARS Case 97-DO20, Employment Prohibition of Persons Convicted of Fraud. Final rule modifies Part 203 and the clause to provide the flexibility for agencies to prohibit defense-related contract felons from working on defense contracts beyond the five year minimum provided for in 10 USC 2408.

8. DFARS Case 97-DOOS, Central Contractor Registration (CCR). Final rule requires contractors to be registered in the CCR database prior to award of a contract resulting from a solicitation issued after March 31, 1998.

9. DFARS Case 98-DO07, Reform of Affirmative Action in Federal Government Procurement. Draft interim rule Amends the FAR concerning programs for small disadvantaged business (SDB) concerns. The amendments are designed to ensure compliance with the constitutional standards established by the Supreme Court in the Adarand Constructors, Inc. versus Pena case.

#### Information Items

1. YEAR 2000 COMPLIANCE: The Director of Defense procurement is again receiving complaints from industry about buying activities inserting warranty clauses and, in some cases, certifications regarding Year 2000 compliance. A reminder that statute (Section 29 - 41 USC 425) prohibits the use of nonstandard contract clauses and certifications that are not statutorily based.

2. NEXT FAC: Federal Acquisition Circular (FAC) 9704 was published February 23, 1994. The cases contained are provided at the OGC web site furnished in the opening paragraph of this report.

3. NEXT DAC: The anticipated publication date of Defense Acquisition Circular (DAC) 91-13 is the week of March 2, 1998. items contained include: Approval of Nonstatutory Certification Requirements (DFARS Case 97-D301); Contract Action Reporting (DFARS Case 97-DO13) ; Data Universal Numbering System (DUNS) Number (DFARS Case 97D019); Single Process Initiative (DFARS Case 97D014); Truth in Negotiations and Related Changes (DFARS Case 95-D708); Multiyear Contracting and Other Miscellaneous Provisions (DFARS Case 95D703); Qualified Nonprofit Agencies for the Blind or Severely Disabled (DFARS Case 97-D310); Pilot Mentor-Protégé Program (DFARS Case 97-D322); Recovered Material Certification (DFARS Case 97-D031) ; Buy American Act Exception for Information Technology Products (DFARS Case 97-DO22); Duty-Free Entry (DFARS Case 96-DO20); Trade Agreements Threshold (DFARS Case 97-DO40); Application of Berry Amendment (DFARS Case 96-D333); Contingent Fees-Foreign Military Sales (DFARS Case 96-DO21); Subcontracting Plans-Indian Incentives (DFARS Case 97-D309); Cost Principles (DFARS Case 95-D714); Allowability of Costs for Restructuring

Bonuses (DFARS Case 97-D312); Cost Reimbursement for Indirect Costs (DFARS Case 96-D303) ; Finance (DFARS Case 95-D710); Earned Value Management Systems (DFARS Case 96-DO24); Research and Development Definitions (DFARS Case 97-DO21); Report of 10-Year Term Contracts (DFARS Case 97-D303); Construction in Foreign Countries (DFARS Case 97-D307); Architect-Engineer Selection Process (DFARS Case 97-DO15) ; Overseas Architect-Engineer Services (DFARS 97-DO34); Uncompensated Overtime (DFARS Case 97-DO37); Telecommunications Services (DFARS 97-D305); Certification of Requests for Equitable Adjustment (DFARS Case 97-D302); Designation of Hong Kong (DFARS Case 97-DO23); Specialty Metals-Agreements with Qualifying Countries (DFARS Case 97-DO07); and Reporting of Contract Performance Outside the United States (DFARS Case 97-DO29).

4. DFARS 215: The DAR Council is in the process of analyzing public comments submitted in response to the proposed rule on DFARS 215. We expect to finalize the rule at the March 4 DAR Council meeting and publication shortly thereafter.

5. OFPP ADMINISTRATOR: Ms. Dee Lee, current NASA Administrator, has been nominated to replace Dr. Steven Kelman as the OFPP Administrator.

### ARMY PROCUREMENT POLICY ALERT BULLETIN, 98-004

The following documents contain information of importance to the acquisition community and are provided for your information and any necessary implementation in advance of formal publication of a Federal Acquisition circular (FAC) or Defense Acquisition Circular.

1. DDP Memorandum, Subject: Class Deviation--Equal Employment Opportunity, DAR Tracking Number: 98-00002, dated February 11, 1998.

2. DDP Memorandum, Subject: Waiver of Domestic Source restrictions, D.L. 98-001, February 4, 1998, DFARS Case 97-D321.

3. DDP Memorandum, Subject: Warranties in Weapon System Acquisitions, D.L. 98-002, February 6, 1998, DFARS Case 97-D326.

4. DDP Memorandum, Subject: Restructuring Costs, D.L. 98-003, February 13, 1998, DFARS Case 97-D313.

This bulletin is issued by the Office of the Deputy Assistant

Secretary of the Army (Procurement). Comments or questions should be referred to Headquarters, Department of the Army, ATTN: SARD-PP, Skyline 6, Suite 916, 5109 Leesburg Pike, Falls Church, VA 22041-3201.

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